

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

OLIVIA Y., by and through her next friend, James D. Johnson; JAMISON J., by and through his next friend, Clara Lewis; DESIREE, RENEE, TYSON, and MONIQUE P., by and through their next friend, Sylvia Forster; JOHN A., by and through his next friend, James D. Johnson; CODY B., by and through his next friend, Sharon Scott; MARY, TOM, MATTHEW, and DANA W., by and through their next friend, Zelatra W.; AND SAM H., by and through his next friend, Yvette Bullock; on their own behalf and behalf of all others similarly situated,

Plaintiffs,

CIVIL ACTION NO.
3:04-CV-251-TSL-FKB

v.

PHIL BRYANT, as Governor of the State of Mississippi;
DONALD TAYLOR, as Executive Director of the
Department of Human Services; AND BILLY MANGOLD,
as Director of the Division of Family and Children's
Services,

Defendants.

**AFFIRMATION IN SUPPORT OF MOTION FOR LEAVE TO SUPPLEMENT
PENDING AMENDED MOTION FOR RELIEF PURSUANT TO REMEDY PHASE OF
PLAINTIFFS' RENEWED MOTION FOR CONTEMPT, FOR AN EVIDENTIARY
HEARING, AND FOR THE APPOINTMENT OF A RECEIVER**

I, MARCIA ROBINSON LOWRY, ESQ., being duly sworn, on oath depose and say:

1. I am Executive Director at A Better Childhood, Inc. and represent Plaintiffs in the above-captioned matter. I submit this Affidavit in Support of Plaintiffs' Motion for Leave to Supplement Pending Amended Motion for Relief Pursuant to Remedy Phase of Plaintiffs' Renewed Motion For Contempt, For an Evidentiary Hearing and For the Appointment of a Receiver.

2. Plaintiffs brought their Renewed Motion for Contempt [Dkt. 739] on May 31, 2018, pursuant to Federal Rule of Civil Procedure 70(e), the Stipulated Third Remedial Order [Dkt. 713] (“STRO”), and the 2nd Modified Mississippi Settlement Agreement and Reform Plan [Dkt. 712] (“2nd MSA”).
3. Public Catalyst filed their 2018 report, Progress of the Mississippi Department of Child Protection Services Monitoring Report for Period 6 [Dkt. 845] with the Court on June 11, 2019, in accordance with § 9.5 of the 2nd MSA.
4. Plaintiffs filed their Amended Motion for Relief Pursuant to Remedy Phase of Plaintiffs’ Renewed Motion For Contempt, For an Evidentiary Hearing and For the Appointment of a Receiver [Dkt. 849] (“Amended Renewed Motion”) on July 3, 2019, pursuant to Federal Rule of Civil Procedure 70(e), the Stipulated Third Remedial Order [Dkt. 713] (“STRO”), and the 2nd Modified Mississippi Settlement Agreement and Reform Plan [Dkt. 712] (“2nd MSA”).
5. On December 23, 2019, Public Catalyst issued the Progress of the Mississippi Department of Child Protection Services: Interim Monitoring Report for *Olivia Y., et al. v. Bryant, et al.* covering January to June 2019 (the “Interim Report”).
6. According to the Interim Report, Defendants are *not* in compliance with the following provisions of the 2nd MSA:
 - Caseworker Caseloads – § 1.3.a
 - Supervisor Staffing Ratios – § 1.3.b
 - Foster Care Service Standards Reporting – § 1.6.b
 - Responding to Reports of Abuse and Neglect – § 2.1
 - Special Investigations Unit and Maltreatment in Care Investigation Initiation Timeliness – § 2.2
 - Maltreatment in Care Screen-Out Reviews – § 2.3

- Licensure Investigations by Child Placing Agencies – § 2.5
- Maltreatment in Care Worker Training – § 2.6
- Maltreatment in Care Investigation Reviews – § 2.7
- Standardized Decision Making – § 2.8
- Timely Licensure of Foster Homes and Facilities – § 3.1
- Unlicensed Foster Homes and Facilities, Safety Issues – § 3.2.b
- Unlicensed Foster Homes and Facilities, Non-Safety Issues – § 3.2.c
- Young Children Placed in Congregate Care Facilities – § 4.9
- Placement Moves – § 4.10
- Placement Moves – § 4.12
- Child-Parent Contacts within 72 Hours of Placement – § 5.2.a
- Family Visitation Plans – § 5.2.b
- Comprehensive Family Service Plans – § 6.1.a.2
- Diligent Search for Parents – § 6.1.c.2
- Permanency Plans – § 6.1.d.2
- Concurrent Permanency Planning – § 6.2.a.1
- Adoption Case Goal – § 6.3.b.1.b
- Permanency Plan Reviews – § 6.4.a.2
- Timely Annual Court Reviews – § 6.4.b.2

See Interim Report.

7. According to the Interim Report, Defendants have failed to provide the Monitor with data regarding the following provisions of the 2nd MSA:

- § 2.8.c
- § 2.8.d
- § 5.2.b.1.a
- § 5.2.b.2
- § 5.2.b.2.a
- § 5.2.b.3
- § 5.2.b.4
- § 6.1.b
- § 6.3.a.1.b
- § 6.3.a.3

- § 6.3.a.6
- § 6.3.d.1
- § 6.3.d.2
- § 6.3.e
- § 7.4
- § 8.1.d.2
- § 8.1.g
- § 8.2.b
- § 8.2.c

See Interim Report.

8. According to the Interim Report, the Monitor was unable to validate the data provided by

Defendants regarding the following provisions of the 2nd MSA:

- § 2.8.b
- § 3.2.a
- § 4.6
- § 4.7
- § 4.16.a
- § 4.17.a
- § 5.1.a.2
- § 5.1.b.2
- § 5.1.c.2
- § 5.1.d.2
- § 6.3.a.2
- § 6.3.a.5.b
- § 7.1
- § 7.2
- § 7.3
- § 7.5
- § 7.6
- § 7.7
- § 7.8.a
- § 7.8.b
- § 7.8.c
- § 7.8.d
- § 7.8.e
- § 7.8.f
- § 7.8.g
- § 7.8.h
- § 7.8.i
- § 7.8.j

- § 7.8.k
- § 8.2.a
- § 8.2.c.1

See Interim Report.

9. Plaintiffs, therefore, respectfully seek entry of an Order granting Plaintiffs leave to supplemental their pending Amended Renewed Motion.

Dated: December 27, 2019.

/s/ Marcia Robinson Lowry
Marcia Robinson Lowry (pro hac vice)
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CERTIFICATE OF SERVICE

I, Marcia Robinson Lowry, have filed the foregoing on this the 27th day of December, 2019, via the CM/ECF filing system which has served all counsel of record.

/s/ Marcia Robinson Lowry
Marcia Robinson Lowry